

REMARKS

Claims 1-4, 13-22 and 31-34 are presently pending in the case. Claim 1 has been amended. The amendment is supported by the specification as originally filed. For example, see Figure 4 and the discussion on pages 10 and 11.

Allowable Claims

Applicant acknowledges with appreciation the Examiner's indication that claims 13-22 and 31-34 are allowable.

Independent claim 1

The Examiner rejected claims 1-4 under 35 USC §102(b) as being anticipated by U.S. Patent 6,029,663 to Eisele et al (hereinafter Eisele et al). The rejection is traversed.

"A rejection for anticipation under section 102 requires that each and every limitation of the claimed invention be disclosed in a single prior art reference." In re Paulsen, 30 F.3d 1475, 1478-79 (Fed. Cir. 1994). "Invalidity on the ground of 'anticipation' requires lack of novelty of the invention as claimed ... that is, all of the elements and limitations of the claim must be shown in a single prior art reference, arranged as in the claim." Karsten Manufacturing Corp. v. Cleveland Golf Co., 242 F.3d 1376, 1383 (Fed. Cir. 2001). Thus, for a rejection under 35 USC §102 to be proper, the reference relied upon must disclose each and every element of the claimed invention and the elements must be arranged as in the claim. Non-disclosure of a single element, feature or limitation of the claim or an arrangement other than that which is claimed negates anticipation.

Eisele et al does not anticipate independent claim 1. Claim 1 is to a system comprising, inter alia, a dry powder inhaler and a receptacle. The receptacle

comprises, inter alia, a top end and a bottom end, wherein the bottom end of the receptacle body includes a raised central region that extends upwardly into the cavity, and wherein the raised central region is shaped to facilitate extraction of the powdered medicament when air or another gas is drawn through the cavity so that the powdered medicament exits the cavity through the top end. Eisele et al does not disclose these features. For example, in Eisele et al the bottom of the cavity is bursts so that medicament exits through the bottom. Since Eisele et al does not disclose each and every feature set forth in claim 1, it does not anticipate the claim. Thus, the Examiner is respectfully requested to reconsider the language of claim 1 and withdraw the rejection thereof under 35 USC §102.

Applicant requests withdrawal of the rejection of claim 1 under 35 U.S.C. §102(b). In addition, Applicant requests withdrawal of the rejection of claims 2-4 which depend from claim 1 and are not anticipated by Eisele et al for at least the same reasons as claim 1.


Conclusion

The claims are allowable for the reasons given above. Therefore, the Examiner is respectfully requested to reconsider the present rejections and allow the presently pending claims. Should the Examiner have any questions, the Examiner is requested to call the undersigned at the number given below.

Respectfully submitted,

JANAH & ASSOCIATES

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